S.B. Criminal Revision Petition No.1120/2006.
(Smt. Shahida Vs. State of Rajasthan & Another)

17.04.2007

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. M.K. Garg for the petitioner.
Mr. Talat Bari for the non-petitioner.

By this petition, the petitioner complainant is challenging the order dated 08.11.2006 passed by the Addl. Chief Judl. Magistrate, Bhinmal whereby non-petitioner No.2 was discharged from the alleged offence under Section 498A, I.P.C. on the ground of territorial jurisdiction.

As per facts of the case, the complaint was filed by the petitioner wife against non-petitioner husband and his family members before the Addl. Chief Judl. Magistrate, Bhinmal. The said complaint was sent for investigation under Section 156(3), Cr.P.C. and, after usual investigation into the matter, the police filed challan against inter alia the non-petitioner No.2. Thereafter, at the time of framing charge, observing that no offence took place within the territorial jurisdiction of the Court at Bhinmal, the learned Addl. Chief Judl. Magistrate, Bhinmal vide the impugned order discharged the accused.

Learned counsel for the petitioner contended that it is wrong to

say that no incident took place within the territorial jurisdiction of the Court at Bhinmal and there is sufficient evidence on record, therefore, the learned Magistrate has committed error while passing the order dated 08.11.2006. Learned counsel for the petitioner also contended that the judgment relied upon by the trial Magistrate, reported in 2006 (2) Cr.L.R. (Raj.) 1348, Suman Kumar Vs. State of Rajasthan, has been wrongly relied upon.

On the other hand, learned counsel for the non-petitioner No.2 invited attention of the Court towards the facts of the case and submitted that no incident with regard to alleged offence under Section 498A, I.P.C. took place within the territorial jurisdiction of the Bhinmal Court and, therefore, the trial Court has rightly discharged the accused on the ground of want of jurisdiction.

I have carefully gone through the material on record as well as impugned order.

It is revealed from the record that the non-petitioner No.2 is resident of village Reotara, Tehsil Sayala which is in the Jalore Judgeship and though the Bhinmal Court also falls under the Judicial District Jalore under the control of District & Sessions Judge, Jalore, the learned Magistrate at Bhinmal has rightly observed about lacking the territorial jurisdiction to try the case and hence discharged the accused for want of territorial jurisdiction. However, the learned Magistrate has clearly observed that the case falls within the territorial jurisdiction of the Court at Jalore and since the Bhinmal Court also falls

within Jalore Judgeship, in the facts and circumstances of the case, in the interest of justice, while setting aside the impugned order, it is appropriate to transfer the case from the Court of Addl. Chief Judl. Magistrate, Bhinmal to the Court of Chief Judl. Magistrate, Jalore.

Accordingly, the revision petition is allowed. Order impugned dated 08.11.2006 is set aside. In view of the judgment of the Supreme Court in the case of **Manish Ratan & Others Vs. State of M.P. & Another**, reported in **(2007) 1 SCC (Cri) 336**, it is ordered that the case be transferred from the Court of Addl. Chief Judl. Magistrate, Bhinmal to the Court of concerned Magistrate. The District & Sessions Judge, Jalore shall pass appropriate order for transfer of the case to the Court of competent jurisdiction.

(Gopal Krishan Vyas) J.